

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

HENRY JOHNSON,

Plaintiff,

v.

DR. ADRIAN FEINERMAN,

Defendant.

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Case No. 3:02-cv-413-JLF

ORDER

This matter is before the Court on the Motion to Compel the Plaintiff to Authorize the Release of IDOC Medical Records and Discovery (Doc.15) filed by the defendant, Adrian Feinerman, on August 24, 2005, and the Motion To Extend Discovery and the Due Date for Dispositive Motions (Doc. 16) filed by the defendant, Adrian Feinerman, on September 6, 2005. The Motions are **GRANTED**.

Plaintiff filed his complaint on May 10, 2002, alleging that defendant failed to provide adequate medical care in violation of his rights under the Eighth Amendment. On January 4, 2005, the case was assigned to the undersigned (Doc. 11). On May 6, 2005 this Court issued a Scheduling and Discovery Order (Doc. 14). Said Order stated that all discovery shall be completed by September 5, 2005.

On August 24, 2005, the defendant filed a motion to compel pursuant to Federal Rule of Civil Procedure 37 and requested that this Court order the plaintiff to provide a signed authorization for the release of any and all Illinois Department of Corrections medical records. Defendant further stated that he sent the plaintiff a letter along with consent forms for the release

of his medical records on three occasions: December 2, 2004, April 13, 2005, and May 12, 2005. Defendant stated that none of these forms have been executed and returned to him. Defendant further stated that plaintiff has failed to respond to interrogatories and request to produce.

Federal Rule of Civil Procedure 33 states that the party on whom interrogatories have been served shall serve a copy of the answers and objections, if there are any, within 30 days after service of the interrogatories. See Rule 33(b)(3). Rule 33(b)(5) states that the party submitting the interrogatories can move for an order to compel under Rule 37(a) if there is a failure to answer an interrogatory. Rule 34 states that the party upon whom the request for production of documents is served shall serve a written response within 30 days. The party submitting the request may move for an order to compel under Rule 37(a) for failure to respond. Rule 37(a) states that “[a] party, upon reasonable notice to other parties . . . may apply for an order compelling disclosure or discovery. Defendant’s last request to plaintiff occurred on May 12, 2005. More than four months have passed since the last request.

The Court **ORDERS** the plaintiff to return an executed consent form for the release of his medical records from the Illinois Department of Corrections to the defendant by October 6, 2005. The Court further **ORDERS** the plaintiff to respond, in writing, to defendant’s interrogatories and request to produce by October 6, 2005. Failure to comply with this Order could result in sanctions being issued against the plaintiff, which could include dismissal of the complaint.

The Court further amends the scheduling order. Discovery shall be completed by October 25, 2005. Dispositive motions shall be filed by November 16, 2005.

DATED: September 16, 2005.

s/ Donald G. Wilkerson
DONALD G. WILKERSON
United States Magistrate Judge